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## WHAT NEXT IN IMMIGRATION LEGISLATION ?

By Professor ROBERT DE C. WARD

HARVARD UNIVERSITY

### THE IMPERATIVE NECESSITY OF FURTHER "PERMANENT" LEGISLATION

THE present 3 per cent. immigration restriction law will expire on June 30, 1924. What shall take its place? The conditions which led to its adoption will still exist. We are facing a permanent tendency toward rapidly increasing and steadily deteriorating immigration, and millions of prospective immigrants overseas are impatiently waiting for the thirtieth of June, 1924, when they will rush in, in a seething chaotic mob, unless Congress takes steps to stop them.

### THE OPPOSITION TO RESTRICTION

To any program for restriction there is certain to be active, well-organized and heavily financed opposition. This opposition is centered in (1) certain racial groups which are interested, not in the future of America, but in the increase of their own race in America; (2) employers who want foreign labor so cheap that it is dear at any price; who put pocketbook above patriotism; (3) the steamship companies, who believe themselves to have vested rights in the United States as a dumping-ground for their human cargoes, and (4) those who have been well termed "the incurable sentimentalists." Every effort is now being made to misconstrue our present laws; to distort and misrepresent their effects; to make them unworkable and unpopular. These laws are being subjected to organized attack by "interested" individuals, alien racial groups and hyphenated societies, and certain influential newspapers which carry heavy steamship advertising. *All of these are bent on making any restriction whatever appear unreasonable, unjust and inhumane.* It is very important that the character, the motives and the tactics of this opposition should be known.

### OUR GENERAL IMMIGRATION LAW MUST BE MAINTAINED AND ENFORCED

There can be no question that our general immigration law of 1917 must be maintained. This law names some thirty classes of

aliens who are excludable on mental, physical, moral or economic grounds. These include the insane, the idiot and the feeble-minded; those who have loathsome or dangerous contagious diseases; criminals; prostitutes; persons physically incapacitated from earning a living, illiterates, etc. In fact the enumeration of the undesirable classes is so complete that, if the law had been and were always rigidly enforced, our immigration "problem" would give us far less trouble than it does. Our law bars criminals, but our court and institution records show a large excess of foreign-born. Our law bars the insane, but our insane hospitals, especially in the northeastern States, are filled with aliens. Our law bars those suffering from loathsome and dangerous contagious diseases, and those suffering from physical disability that may affect ability to earn a living, but political "pull" often suffices to admit over the doctor's certificate, against the express provision for exclusion. Our law debarb paupers; yet an insignificant number of aliens is debarred on these grounds, although the majority of those now arriving come without money, and are not productive laborers.

In a recent paper on the deportation system of several States, Dr. H. H. Laughlin, of the Eugenics Record Office, Cold Spring Harbor, N. Y., brought together some startling facts.

A recent survey shows that in 1916 the several states expended on an average of 17.3 per cent. of their total governmental expenditures in maintaining custodial and charitable institutions. This percentage varied from 5.4 in Alabama to 30.5 in Massachusetts. A survey of 460 state institutions for the several types of the socially inadequate, with a total of 210,835 inmates, recently (1922) completed by the Committee on Immigration and Naturalization of the House of Representatives, found 21.14 per cent. of these fifth of a million inmates to be of foreign birth and 44.09 per cent. to be of foreign stock—that is, of foreign birth or who have at least one parent foreign born. Thus if, on the average, it costs the same in the institutions to maintain native-born and foreign-born inmates, then currently the several states are expending approximately 7.62 per cent. of their total revenues in caring for degenerate and dependent human foreign stock. This is the logical outgrowth of the asylum idea which has pervaded the American immigration policy.

The proper enforcement of our general immigration law involves not only a very careful and deliberate scrutiny of all arriving aliens, but also a systematic and thorough round-up of all aliens already in this country who are deportable because they have become public charges, or who have been found to belong to certain other specified classes of undesirables which are by law subject to deportation. Never yet since the law of 1917 has been on our statute books has it been strictly enforced. It is to the credit of the present administration that a distinct improvement in

this respect was made during the past year. And it should be remembered that strict enforcement leads to a certain extent to self-enforcement, for the more aliens are debarred as undesirable, the fewer such attempt to get in.

#### THE PERCENTAGE LIMITATION MUST BE MADE PERMANENT

The present 3 per cent. law is not perfect, but it has on the whole worked successfully, and has fully justified its enactment. It is reasonably generous in permitting the reuniting of families; in allowing unrestricted entry to tourists and other excepted classes, and it has kept our ports open to a fairly considerable inflow of newcomers, for it should be remembered that it permits an annual immigration of over 350,000. It has undoubtedly worked hardships in some cases, but most of the newspaper stories of such hardships have either been intentionally exaggerated, or have been untrue. Public sympathy is easily aroused by a single instance of real or fictitious hardship. The far more vital problem of how the present character of immigration is to affect the American race of the future is more remote, and attracts less attention. The administration of the law is fortunately in the hands of officials who are enforcing it with justice and humanity.

There is one point in connection with the 3 per cent. law which is often lost sight of. For a good many years before the war, aliens from southern and eastern Europe largely outnumbered those from northern and western Europe. Under the new law these numbers are nearly equalized, so that if all nationalities fill their allotted quotas, the so-called "newer" immigration can not contribute more than about one half of our annual inflow. This fact is biologically of great significance. In the fiscal year ending June 30, 1922, deducting emigrants from immigrants, we gained in Nordic stock, and lost in the natives of southern and eastern Europe.

Those who attribute solely to the present percentage restriction the need of labor in certain industries are either wholly ignorant of the facts, or are intentionally trying to mislead the public in the effort to break down all restrictions and to flood the country with cheap labor. In this connection it should be realized that (1) there has been a very considerable emigration of alien labor during the recent period of business depression and unemployment; (2) if all countries filled up their quotas, which they have not been doing during the past year, there would be an annual inflow of over 350,000; (3) the countries of northern Europe have fallen much farther below the quotas than those of southern and eastern Europe, most of the latter having exhausted their quotas, thus showing that the intelligent and skilled labor of northern Europe

has not been disposed to emigrate to the United States; (4) the immigration of aliens who are natives of any countries of the New World is not subject to the provisions of the law; (5) a considerable proportion of our immigration under the 3 per cent. law has been made up of sweat-shop workers, peddlers and small shop-keepers, not of strong, sturdy, intelligent laborers. This is clearly not the fault of the law, but results from the present tendencies of immigration. Thus the "need of labor" is by no means to be attributed solely, or even largely, to the percentage law. Furthermore, there is little doubt that northern and western Europe will fill up its quotas during the coming year, as immigration from those countries is increasing. The relation of immigration restriction to the rising scale of wages was so clearly stated by Honorable Albert Johnson during the closing days of the session of Congress recently ended that we can not do better than to quote from his remarks on this point.

Every good American sympathizes with workmen in their effort to obtain decent wages and decent conditions. . . . Restriction is an absolutely necessary supplement to a protective tariff. Immigration must be curtailed until all workers, native and foreign-born, whether in the basic or other industries, get wages and have conditions commensurate with American standards and ideals if we are to maintain those standards, ideals, and, in fact, our very civilization. Just as soon as wages in those industries rise to the point where the breadwinner can rear and support his family in keeping with American standards, the native-born will reinvade those industries from which they have been driven by the ruinous competition of imported cheap labor, often inducted into conditions amounting to slavery, and when wages do rise to that level the native supply will quite meet the demand, just as native labor does in every other country.

This is the situation in a nut-shell.

As a result of the awakening on the part of our people to the effects of the practically unrestricted new immigration from southern and eastern Europe and Asia, for the first time, and against bitter opposition, the principle of numerical limitation has been established by overwhelming majorities in Congress in a manner which gives equal treatment to all the nationalities which make up our population as far as is consistent with the maintenance of what we know as America. This principle, which has been long and strongly advocated by leading authorities on immigration, should be made our permanent immigration policy. Our own country, foreign countries, the steamship companies—all have become more or less adjusted to a definite numerical limitation of our alien immigrants. The machinery is in operation, and works remarkably smoothly, as much so as any restrictive legislation ever works. In reenacting a percentage law, whether it be the present 3 per cent., or the 2 per cent. which has been suggested in certain

bills lately introduced into Congress; and whether the percentage quotas be based on the census of 1910 or an earlier census, it would be wise to make the law somewhat more elastic. Reasonable provision should be made to prevent the breaking up of families. This could readily be accomplished by treating the *immediate* members of a family as a unit whenever some members could be admitted without exceeding the quota while the remaining ones would otherwise be excluded because exceeding the quota. Exceptions in favor of bona-fide tourists, of students and of professional classes are necessary. Further, a maximum number of 500 or 600 could wisely be set for the admissible aliens from certain countries whose quotas are very small under the 3 per cent. provision, and from which we receive highly desirable immigrants. The quota from Australia, for example, in the present fiscal year is only 279 and that from New Zealand and Pacific Islands is only 80. With these changes, a percentage law such as the present one would involve very few hardships. At the same time if the exceptions were carefully drawn, there would be no danger of our being swamped by any such flood of aliens as swept in upon us before the war, and as will, in even greater volume come in again unless we take steps to prevent it.

It can not be too strongly emphasized that, while the original argument in favor of the 3 per cent. law was economic, the real, fundamental, lasting reason for its continuance is biological. This side of the matter was so clearly and forcibly presented in an editorial note in the October number of the *World's Work* that we can not do better than to quote that statement here:

If America is to realize its fullest possibilities, it must exercise the principle of selection. Up to the present time it has ignored this method. Our policy of opening our gates to all comers has really meant that we have recognized no distinctions among peoples, that we have refused to admit that one presented better material for citizenship than another, and that we have pinned our faith on the existence of some wonder-working alchemy in the American atmosphere which could transmute an inferior race into a superior one. But the teaching of all history, as well as the experiments of the biological laboratory, show the absurdity of any such easy-going philosophy, and the nation has reached the point where it should base its future upon scientific and historical fact.

This is really the argument in favor of the three per cent. immigration law. It does not directly apply this principle of selection, it is true; that is, it does not in so many words limit immigration in future to particular races and particular nations. Yet indirectly it does accomplish a result which is not dissimilar. It takes the population of 1910 as representing the proportions of different peoples which, under the practical limitations of the problem, may be regarded as furnishing the desirable racial composition of the future United States. The great majority of that population came from the countries of northwestern Europe—Germany, Scandinavia, Great Britain and Ireland. There are few who have studied the matter who do not regard these

peoples as the most desirable elements with which to construct the nation. By limiting future arrivals to three per cent. of these stocks, therefore, the law does provide that the American people of the future, as well as of the present, shall be chiefly from the races of northwestern Europe. That is the reason why this law, or one based upon the same principles, should represent the permanent policy of the republic.

#### OBJECTIONS TO A FLAT NUMERICAL LIMITATION WITHOUT PROPER SELECTION

The sole purpose of such a numerical limitation as that embodied in the present 3 per cent. law is to cut down numbers. Because immigration was largely of an undesirable quality we cut it down. The 3 per cent. law certainly does let in a smaller amount of bad stock, but does not improve the stock, physically, mentally or morally. It doubtless shuts out some highly desirable immigrants because the quotas are mostly filled with undesirable ones. Furthermore, being based on nationality, *i. e.*, country of birth, and not on race, it has made possible a disproportionate immigration of Jews to the exclusion of thousands of non-Jewish aliens. This fact comes about because of the extraordinary activities of Jewish relief societies, both in this country and in Europe. These organizations take all the steps necessary to enable their co-religionists in Europe to emigrate to the United States, such as procuring their passports, purchasing their passage tickets, and caring for them *en route* to the ports of embarkation. Thus the annual quotas from several European countries are largely filled with Jews. In this way the "flat" percentage restriction has been worked with injustice to non-Jewish aliens who desire to come to the United States.

It is because a flat percentage restriction works only quantitatively and not qualitatively that it is absolutely necessary to maintain and to enforce our general immigration law of 1917, as urged above.

#### OVERSEAS INSPECTION OF PROSPECTIVE IMMIGRANTS IS NOT PRACTICABLE

There seems to be so many and such obvious advantages, both to the prospective immigrant and to the United States, in having some sort of examination overseas, that there is at present a widespread demand for such inspection. This is no new agitation. It has marked the history of immigration literature and debate for at least thirty-five years. Such foreign inspection would seem to be our only way of looking into the antecedents, habits and character of our intending immigrants; of picking out those who by heredity and education are best fitted to become American citizens; of eliminating, at the source, all those who, under our general immi-

gration law, are physically, mentally, morally or economically undesirable. Overseas inspection suggests itself as a humane method of stopping most of the inadmissible aliens before they start on their voyage, and it should be welcomed by the steamship companies, for it would mean that few rejected aliens would have to be taken back at the companies' expense.

The plan recently most widely advocated is that the United States should establish an immigration office in each consulate to function in connection with the work of viséing passports, the immigration inspectors to certify as to an alien's admissibility to this country before his passport is viséd.

On its face this plan seems sensible, wise and humane. It seems to offer a simple and practical solution of the immigration problem. Yet there are so many objections to it, and so many obstacles in the way of its accomplishment, that for years all committees of Congress which have considered it, as well as the Immigration Commission of a decade or so ago, and leading authorities on immigration, have been forced to abandon it. A first objection to overseas inspection is that it would necessitate a very large increase in the number of immigration inspectors and medical officers, with the resulting heavy expense. If an undesirable alien is to be stopped before he leaves home and if the antecedents and character of our prospective immigrants are to be accurately ascertained, we must have our inspectors and doctors at all the thousands of places all over Europe and western Asia from which our immigrants come. For it is obvious that a United States immigration inspector at a consulate in Hamburg, *e. g.*, making an examination there of, say, a thousand Jews coming from all parts of Poland, would be no better able to determine their eligibility there than on their arrival at Ellis Island. Of course, those who might be declared inadmissible by the inspector at a European port, or at some inland city where we have a consulate, would be saved the voyage across the Atlantic, but complete information concerning any alien could only be obtained in his home town or hamlet. In the second place, overseas inspection would divide the responsibility between the officials abroad and those at our own ports, for there is no question that we must, under any and all conditions, always maintain our inspection service at our ports. In all doubtful cases, each inspector, the one abroad and the one here, would throw the responsibility upon the other. Thirdly, overseas inspection, supplemented by home inspection, would work hardship on the aliens because it would never be certain that all with overseas certificates would be allowed to land on a second examination here.

Lastly, whenever overseas inspection of prospective immigrants has been seriously considered by Congress, certain foreign govern-



ments have objected to it on the ground that this country would thereby be assuming extra-territorial sovereignty not in accordance with treaty rights. Delicate diplomatic problems are here involved. No scheme for foreign inspection could be devised which did not use the existing machinery of consular offices. As the Honorable Albert Johnson has recently said, "Our consular offices are established under authority of trade and commercial treaties, each of which sets forth specifically what functions may be carried on by consular employees. Examination of persons who contemplate migration to the United States is not included. It follows that if we are to set up a plan for examination of immigrants overseas we must of necessity revise many of our trade and commercial treaties." This is the situation in which the United States finds itself in this matter of overseas inspection.

It is obvious that the interests of the United States and those of foreign countries are absolutely opposed in this matter of immigration selection. We want the sound, able-bodied, intelligent. We do not want the defective, the delinquent, the physically unfit. The former are the ones most desired at home. The latter, foreign governments would not regret to have emigrate. It is, therefore, readily understood why these governments may not be too ready to acquiesce in any new arrangement whereby we can select the best and refuse the worst of their people. The present passport and visé system gives foreign governments the power to designate and to allow to emigrate those persons only whose presence in their own countries is not desired. The selection of our future citizens is therefore not in our own hands.

In spite of the present obstacles in the way of our establishing overseas inspection, it might perhaps be possible, through ordinary diplomatic channels, without the necessity and the delays of negotiating any new treaties, to come to an amicable working agreement—a Gentlemen's Agreement, in short—with the governments of foreign countries from which our immigrants come, whereby, by international cooperation, the United States could make some sort of a preliminary examination of intending immigrants before they sail. If the present administration could bring about such an agreement, it would take a long step in the settlement of this most difficult and important national problem. The sympathetic attitude of the present Secretary of Labor on this question has been clearly indicated. Thus, in an address given in Boston on June 14 last, he said (*The Boston Herald*, June 15) "We must bar out those who menace our national life and our national institutions. Much could be done by providing for inspection of prospective immigrants in Europe before they undertake the long journey

across the Atlantic. I would insist upon the most rigid tests of blood, physical, mental and moral stamina before admitting a single immigrant." With this view all patriotic and thinking Americans must surely agree.

Overseas inspection, however, desirable as it would be, should not and could not in any way replace the other restrictive and selective measures advocated in the foregoing discussion. We imperatively need a stricter enforcement of our general immigration law, and a permanent percentage limitation with the amendments above suggested.

ADDENDUM: If we want the American race to continue to be predominantly Anglo-Saxon-Germanic, of the same stock as that which originally settled the United States, wrote our Constitution, and established our democratic institutions; if we want our future immigration to be chiefly made up of kindred peoples from northern and western Europe, easily assimilable, literate, of a high grade of intelligence, able to understand, appreciate and intelligently support our form of government, then the simplest way to accomplish this purpose is to base the percentage limitation upon an earlier census than that of 1910, *i. e.*, before southern and eastern Europe had become the controlling element in our immigration. In an important discussion of "The Immigration Problem," in *Scribner's Magazine* for September, 1922, which came to the present writer's attention after he had completed the foregoing article, Professor Roy L. Garis, of Vanderbilt University, suggested that our permanent legislation be based upon the percentage principle, but that we admit 3 per cent. of the different nationalities of foreign-born in the United States as shown by the census of 1890. This, as Dr. Garis rightly says, "is a simple yet practical solution, based on historical facts." If instead of 3 per cent. we should admit 5 per cent. of the foreign-born resident here in 1890, the annual total for all Europe would be 400,000, in round numbers. Of these, about 200,000 would be admissible from northwestern Europe; 50,000 from Scandinavian Europe; 165,000 from Central Europe; 10,000 from eastern Europe; 10,000 from southwestern Europe, and 2,000 from southeastern Europe. Such a law would result in bringing in a large preponderance of immigrants who present no difficulties of assimilation; who do not give rise to our immigration "problem." It would thus be automatically selective, as well as numerically restrictive. If we are to maintain the physical and mental standards of our race; if we are to make America safe for democracy, to keep America for Americans, there is no more logical or practical method than this.